

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/583,964	Applicant(s) BONSMA ET AL.	
	Examiner JEFFREY NICKERSON	Art Unit 2442	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): 112 2nd rejections of claims 4, 11-21.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-21.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: Attached Attachment to Advisory Action.

/Philip C Lee/
 Primary Examiner, Art Unit 2448

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's use of the term "operable" throughout the independent claims does not impose limitations, as any programmable device is operable to perform the functionality if programmed correctly. Similar to the term "capable of", any programmable entity is "capable of" performing any programmed task because it can be programmatically configured to do such.

Argument 1: Applicant argues Triantafillou does not teach responding with a message identifying the computer that the node for directory look-up is located on.

Response 1: While applicant may be implying that the message is identifying a third party computer (ie, neither the requester or the computer maintaining the node for directory lookup) the claim language does not recite this language. Triantafillou provides for a node responding to a directory look up (category look up) with a result set (section 3.3, step 2c). In the case of m being greater than a, the target node replies (section 3.3, step 2b). Kwon was relied on for a message containing a source node identifier. Source node identifiers would identify the node upon which the directory resides within the reply of the result set.

Argument 2: Applicant argues Triantafillou does not have separate networks for directory lookup and item lookup.

Response 2: This language is not recited within the claim language. While the applicant continually implies throughout their arguments that there are two separate virtual networks, the examiner does not see this language within the claim. Even if such was the case, every node of Triantafillou could be a node of both networks, and thus be part of both separate virtual networks.

Argument 3: Applicant argues Triantafillou does not teach forwarding the directory inquiry message to another node upon failure to identify the directory on the current node.

Response 3: Triantafillou teaches just such, upon "a" being zero in section 3.3 step 2a and step 2b. The target node will forward the request to another node.

Argument 4: Applicant argues that Triantafillou doesn't teach nodes have linking data comprising addresses of other nodes.

Response 4: While one may argue it's impossible to have nodes communicating without knowing the addresses of one another, the examiner relied upon Bonsma to teach this concept. Bonsma teaches each node having multiple type of links (Bonsma: section 3, paragraph 2) and that links are addresses to other nodes (Bonsma: section 3.1, specifically the addBootstrapLink function).

Argument 5: Applicant argues that the target node of Triantafillou can only relate to either a node for item lookup or directory lookup.

Response 5: The examiner maintains a node can be for both item and directory lookup. Applicant's recitation of features required to perform a "directory lookup" are all performed by the target node of Triantafillou (or added functionality disclosed by other references). Applicant's recitation of features required to perform a "item lookup" are all performed by the target node of Triantafillou (or added functionality disclosed by other references). Thus, the node performs both functionalities and is both for directory and item lookup.

Argument 6: Applicant argues Kwon teaches extra functionality not claimed and therefore would not be obvious to combine.

Response 6: The examiner disagrees. Extra functionality of a reference has no bearing on the obviousness to combine as long as there is a rationale underpinning of obvious, for instance because the results would be predictable. Furthermore, the section referenced by the examiner for returning the computer IP address is found on under Figure 3, bottom LHS and top RHS where Kwon explicitly recites that upon searching for a file, the destination node address is returned to the requester.

Argument 7: Applicant argues that text added in brackets to put the claim in context is not rendered obvious by the cited references.

Response 7: Limitations must exist in the claim before they can be examined and hold merit for being argued.

Argument 8: Applicant argues Adar does not teach sending an enquiry message identifying the item and subsequently receiving the item.

Response 8: Adar clearly teaches requesting the file after a query identifies the destination and receiving the file (Adar: pg 5, get/push message).

With regard to claims 5, 9-10, and 13-15: Applicant traverses the statements of Official Notice and indicates confusion surrounding the "ON" and "Christenson" references. The examiner apologizes for a typographical error existing in the Final Rejection. The statements of Official Notice were meant to be removed and replaced with the reference of Christensen. Please see the Attachment to Advisory Action for the correct version of the rejection of these claims.